



# RULE-MAKING ORDER

**CR-103E (July 2011)**  
(Implements RCW 34.05.350)

**Agency:** Washington Department of Fish and Wildlife

**Emergency Rule Only**

**Effective date of rule:**

**Emergency Rules 16-323**

☒ Immediately upon filing.

☐ Later (specify) \_\_\_\_\_

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

☐ Yes

☒ No

If Yes, explain:

**Purpose:** The purpose of this rule-making is to provide for Treaty Indian fishing opportunity in the Columbia River while protecting threatened or endangered species under the Endangered Species Act.

**Citation of existing rules affected by this order:**

Repealed: WAC 220-32-05700R

Amended: WAC 220-32-057

Suspended:

**Statutory authority for adoption:** RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047

**Other authority :** *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546); *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington Fish and Wildlife Commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River Compact).

**EMERGENCY RULE**

Under RCW 34.05.350 the agency for good cause finds:

- ☒ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- ☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
- ☐ That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal year 2009, 2010, 2011, 2012, or 2013, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this finding: This emergency rule is needed to allow treaty fisheries to remove excess and undesirable hatchery sturgeon from the populations in the Priest Rapids and Wanapum pools. There is insufficient time to adopt permanent rules.

**Date adopted:** December 13, 2016

**NAME (TYPE OR PRINT)**

Joe Stohr for J W Unsworth

**SIGNATURE**

**TITLE**

Director

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: December 13, 2016**

**TIME: 2:59 PM**

**WSR 17-01-050**

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	<u>1</u>	Amended	_____	Repealed	<u>1</u>
<b>Federal rules or standards:</b>	New	<u>1</u>	Amended	_____	Repealed	<u>1</u>
<b>Recently enacted state statutes:</b>	New	_____	Amended	_____	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New	<u>1</u>	Amended	_____	Repealed	<u>1</u>
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	_____	Repealed	_____

## NEW SECTION

### **WAC 220-32-05700R Columbia River sturgeon.**

Notwithstanding the provisions of WAC 220-32-057, effective immediately, it is unlawful to take, fish for or possess sturgeon for commercial purposes in the Columbia River Priest Rapids and Wanapum pools, except that those individuals possessing treaty fishing rights under the Yakama treaties may fish for sturgeon with setline gear under the following provisions:

- (1) **SEASON:** Immediately through 5:00 p.m. Saturday, December 24, 2016
- (2) **AREA:** Priest Rapids Pool from one-half mile upstream of Priest Rapids Dam to the Boat Restricted Zone markers below Wanapum Dam, and in Wanapum Pool from one-half mile upstream of Wanapum Dam to Boat Restricted Zone markers below Rock Island Dam.
- (3) **GEAR:** Setlines only. Hook size must be 9/0 or larger and circle hooks are encouraged over J-hooks. All other gears are specifically prohibited. Setlines are restricted to no more than 100 hooks per line.
- (4) **COMMERCIAL AND SUBSISTENCE SIZE LIMITS:** Legal size limits include sturgeon from 38 inches to 72 inches fork length for any purpose in the Priest Rapids and Wanapum Pools. It shall be unlawful to contort or mutilate sturgeon in any way to conform to size limits.
- (5) **ADDITIONAL REGULATIONS:** 24-hour quick reporting required for Washington wholesale dealers, pursuant to WAC 220-69-240, **except** that landings must be reported within 24 hours of completing the fish ticket. Sturgeon must be delivered to the buyer "in the round", that is with fins, eggs, guts, scutes, and gills intact.

## REPEALER

The following section of the Washington Administrative Code is repealed effective 5:01 p.m. December 24, 2016:

WAC 220-32-05700R Columbia River sturgeon.